

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

|   |   |  |
|---|---|--|
| <b>SECURITIES AND EXCHANGE COMMISSION,</b><br><br><div style="text-align: center;"><b>Plaintiff,</b></div><br><b>v.</b><br><br><b>CHARLES R. KOKESH</b><br><br><div style="text-align: center;"><b>Defendant.</b></div> | §<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§ | <br><br><br><br><br><br><br><b>Civil No.1:09-cv-1021-SMV-WDS</b><br><br><br><br><br><br><br> |
|---|---|--|

**PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT  
AS TO ALL CLAIMS AGAINST DEFENDANT CHARLES R. KOKESH**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiff Securities and Exchange Commission (“Commission”) moves for summary judgment as to all claims against Defendant Charles R. Kokesh. Fed. R. Civ. P. 56(c). The evidence supporting the Statement of Material Facts in the accompanying Memorandum of Law establishes that there is no genuine dispute as to any material fact whether Defendant Charles R. Kokesh violated federal securities laws as alleged in the Commission’s Complaint. Therefore, the Commission is entitled to prevail as a matter of law. Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

The evidence shows that, from 1995 through 2005, Kokesh misappropriated \$41,064,736 from four Commission-registered business-development companies (“BDCs”)—Technology Funding Medical Partners I (“TFMP”) ; Technology Funding Partners III, L.P. (“TFP III”); Technology Funding Partners IV, L.P. (“TFP IV”); and Technology Funding Partners V, L.P. (“TFP V”).

Kokesh owned and controlled two now-defunct Commission-registered investment-adviser firms, Technology Funding Ltd. (“TFL”) and Technology Funding, Inc. (“TFI”) (collectively, the “Kokesh Advisers”), which, in turn, controlled and provided investment advice

to the BDCs pursuant to advisory agreements. Acting by and through the Kokesh Advisers, Kokesh misappropriated the funds by causing the BDCs to pay illegal distributions, performance fees, and rent, salary, and bonus reimbursements to the Kokesh Advisers. To conceal the scheme, Kokesh caused the Kokesh Advisers to distribute misleading proxy statements to BDC investors and to file false Commission reports on behalf of the BDCs.

By reason of the foregoing, Kokesh violated Section 37 of the Investment Company Act of 1940 [15 U.S.C. § 80a-36] or, in the alternative, Section 57 of the Investment Company Act [15 U.S.C. § 80a-56], and aided and abetted violations of Sections 13(a) and 14(a) of the Securities Exchange Act of 1934 [15 U.S.C. §§ 78m and 78n] and Rules 12b-20, 13a-1, 13a-13, and 14a-9 [17 C.F.R. §§ 240.12b-20, 13a-1, 13a-13, and 14a-9] thereunder and Sections 205, 206(1), and 206(2) of the Investment Advisers Act of 1940 [15 U.S.C. §§ 80b-5, 80b-6(1), and 80b-6(2)].

For the reasons set forth in the accompanying Memorandum of Law and evidentiary Appendix, the Commission respectfully requests this Court to grant its Motion for Summary Judgment on all claims it asserts against Kokesh.

DATED: January 25, 2013

*s/Timothy S. McCole*  
TIMOTHY S. McCOLE  
Mississippi Bar No. 10628  
United States Securities and Exchange  
Commission  
Burnett Plaza, Suite 1900  
801 Cherry Street, Unit 18  
Fort Worth, Texas 76102  
Telephone: (817) 978-6453  
FAX: (817) 978-4927  
E-mail: McColeT@SEC.gov  
For Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on January 25, 2013, I electronically filed the foregoing document with the Clerk of the Court for the District of New Mexico by using the CM/ECF system which will send a notice of electronic filing to the following CM/ECF participants,

Clinton W. Marrs: [cmarrs@smidtlaw.com](mailto:cmarrs@smidtlaw.com), [melissa@smidtlaw.com](mailto:melissa@smidtlaw.com)  
*Counsel for Defendant Charles R. Kokesh*

January 25, 2013

*s/Timothy S. McCole*  
Timothy S. McCole

**CERTIFICATE OF CONFERENCE**

I certify that, on January 23, 2013, I conferred with counsel for Defendant Kokesh as to the page-limit restriction for exhibits in Local Rule 10.5. Counsel agreed to allow the exhibits to the accompanying Memorandum of Law to exceed 50 pages.

January 25, 2013

*s/Timothy S. McCole*  
Timothy S. McCole